

House File 625

S-3266

1 Amend House File 625, as passed by the House, as
2 follows:

3 1. Page 1, before line 1 by inserting:

4 <DIVISION I

5 SALES AND USE TAX

6 Section 1. Section 423.1, subsection 48, Code 2013,
7 is amended to read as follows:

8 48. a. "Retailer maintaining a place of business
9 in this state" or any like term includes any retailer
10 having or maintaining within this state, directly
11 or by a subsidiary, an office, distribution house,
12 sales house, warehouse, or other place of business,
13 or any representative operating within this state
14 under the authority of the retailer or its subsidiary,
15 irrespective of whether that place of business
16 or representative is located here permanently or
17 temporarily, or whether the retailer or subsidiary is
18 admitted to do business within this state pursuant to
19 chapter 490.

20 b. (1) A retailer shall be presumed to be
21 maintaining a place of business in this state, as
22 defined in paragraph "a", if any person that has
23 substantial nexus in this state, other than a person
24 acting in its capacity as a common carrier, does any
25 of the following:

26 (a) Sells a similar line of products as the
27 retailer and does so under the same or similar business
28 name.

29 (b) Maintains an office, distribution facility,
30 warehouse, storage place, or similar place of business
31 in this state to facilitate the delivery of property
32 or services sold by the retailer to the retailer's
33 customers.

34 (c) Uses trademarks, service marks, or trade
35 names in this state that are the same or substantially
36 similar to those used by the retailer.

37 (d) Delivers, installs, assembles, or performs
38 maintenance services for the retailer's customers.

39 (e) Facilitates the retailer's delivery of
40 property to customers in this state by allowing the
41 retailer's customers to take delivery of property sold
42 by the retailer at an office, distribution facility,
43 warehouse, storage place, or similar place of business
44 maintained by the person in this state.

45 (f) Conducts any other activities in this state
46 that are significantly associated with the retailer's
47 ability to establish and maintain a market in this
48 state for the retailer's sales.

49 (2) The presumption established in this paragraph
50 may be rebutted by a showing of proof that the

1 person's activities in this state are not significantly
2 associated with the retailer's ability to establish
3 or maintain a market in this state for the retailer's
4 sales.

5 Sec. _____. **NEW SECTION. 423.13A Administration —**
6 **effectiveness of agreements with retailers.**

7 1. Notwithstanding any provision of this chapter
8 to the contrary, any ruling, agreement, or contract,
9 whether written or oral, express or implied, entered
10 into after the effective date of this division of
11 this Act between a retailer and a state agency that
12 provides that a retailer is not required to collect
13 sales and use tax in this state despite the presence
14 in this state of a warehouse, distribution center, or
15 fulfillment center that is owned and operated by the
16 retailer or an affiliate of the retailer shall be null
17 and void unless such ruling, agreement, or contract is
18 approved, by resolution, by a majority vote of each
19 house of the general assembly.

20 2. For purposes of this section, "*state agency*"
21 means the executive branch, including any executive
22 department, commission, board, institution, division,
23 bureau, office, agency, or other entity of state
24 government. "*State agency*" does not mean the general
25 assembly, or the judicial branch as provided in section
26 602.1102.

27 Sec. _____. Section 423.36, Code 2013, is amended by
28 adding the following new subsection:

29 **NEW SUBSECTION. 1A. a.** Notwithstanding subsection
30 1, if any person will make taxable sales of tangible
31 personal property or furnish services to any state
32 agency, that person shall, prior to the sale, apply
33 for and receive a permit to collect sales or use tax
34 pursuant to this section. A state agency shall not
35 purchase tangible personal property or services from
36 any person unless that person has a valid, unexpired
37 permit issued pursuant to this section and is in
38 compliance with all other requirements in this chapter
39 imposed upon retailers, including but not limited to
40 the requirement to collect and remit sales and use tax
41 and file sales and use tax returns.

42 *b.* For purposes of this subsection, "*state*
43 *agency*" means any executive, judicial, or legislative
44 department, commission, board, institution, division,
45 bureau, office, agency, or other entity of state
46 government.

47 **DIVISION _____**

48 **SCHOOL TUITION ORGANIZATION TAX CREDIT>**

49 2. Page 1, line 22, before <Act> by inserting
50 <division of this>

- 1 3. Page 1, line 24, before <Act> by inserting
2 <division of this>
3 4. Title page, by striking lines 1 through 3 and
4 inserting <An Act relating to revenue and taxation,
5 including retailers maintaining a place of business
6 in this state for purposes of sales and use taxes,
7 agreements relating to the collection of sales and use
8 taxes, sales of tangible personal property and services
9 to state agencies, modifying the school tuition
10 organization income>
11 5. Title page, line 4, by striking <credits> and
12 inserting <credit>
13 6. By renumbering as necessary.

COMMITTEE ON WAYS AND MEANS
JOE BOLKCOM, CHAIRPERSON